

MONTANA LEGISLATIVE HISTORY

Chapter 30 1981

Bill H _____ S B59

Original bill & history ☒ c

H. Committee on Agriculture ^{select water}

Hearing Date(s) A 1/26 _____ c

W 2/3 _____ c

2/12 _____ c

_____ c

Date Out _____ c

S. Committee on Agriculture

Hearing Date(s) 1/14 _____ c

ex 1/14 _____ c

_____ c

_____ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

TRANSMITTED TO GOVERNOR: 4/21/81
ACTION: 4/23, SIGNED
CHAPTER 539

SB 59 -- S. BROWN -- AMENDING 85-2-306 TO PROVIDE EXEMPTION FOR A STOCK
WATERING PIT-CONDITIONS
PREFILED AND REFERRED TO COMMITTEE ON AGRICULTURE: 12/30/80
HEARING: 1/14
REPORT: 1/15, DO PASS
2ND READING: 1/17, YEAS: 40; NAYS: 1
3RD READING: 1/20, YEAS: 43; NAYS: 4

TRANSMITTED TO HOUSE: 1/20
REFERRED TO COMMITTEE ON AGRICULTURE: 1/21
HEARING: 1/26
ON MOTION, TAKEN FROM COMMITTEE ON AGRICULTURE AND REFERRED TO
SELECT COMMITTEE ON WATER: 1/29
HEARING: 2/3
REPORT: 2/25, DO PASS
2ND READING: 3/3, YEAS: 71; NAYS: 19
3RD READING: 3/5, YEAS: 86; NAYS: 8

RETURNED TO SENATE: 3/5
TRANSMITTED TO GOVERNOR: 3/10/81
ACTION SIGNED: 3/11/81
CHAPTER 30

SB 60 -- ELLIOTT -- SUBJECTING FEES FOR CERTAIN MEDICAL SERVICES TO
REGULATION BY DIVISION OF WORKERS' COMPENSATION.
PREFILED AND REFERRED TO COMMITTEE ON LABOR AND EMPLOYMENT
RELATIONS: 12/30/80
HEARING: 1/8
REPORT: 1/21, DO PASS AS AMENDED
2ND READING: 1/23, YEAS: 36; NAYS: 9
3RD READING: 1/26, YEAS: 47; NAYS: 2

TRANSMITTED TO HOUSE: 1/26
REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 1/27
HEARING: 3/5
REPORT: 3/5, BE CONCURRED IN.
2ND READING: 3/9, YEAS: 71; NAYS: 3
3RD READING: 3/11, YEAS: 90; NAYS: 3

RETURNED TO SENATE: 3/11

TRANSMITTED TO GOVERNOR: 3/16/81
ACTION: 3/19, SIGNED
CHAPTER 90

SB 61 -- ELLIOTT -- TO REPEAL CLASS SIX PROPERTY TAXATION.
FISCAL NOTE: REQUIRED
PREFILED AND REFERRED TO COMMITTEE ON TAXATION: 12/30/80
FAILED TO MEET TRANSMITTAL DEADLINE: 4/6 -- DIED

SB 62 -- MAZUREK -- TO PROVIDE THAT FINES, ETC., PAID TO DEPARTMENT OF
STATE LANDS, ETC., ARE CREDITED TO THE GENERAL FUND.
FISCAL NOTE: REQUIRED
PREFILED AND REFERRED TO COMMITTEE ON STATE
ADMINISTRATION: 12/30/80
HEARING: 1/9

REPORT: 1/13, DO PASS
2ND READING: 1/15, DO PASS
3RD READING: 1/17, YEAS: 45; NAYS: 0

TRANSMITTED TO HOUSE: 1/17
REFERRED TO COMMITTEE ON NATURAL RESOURCES: 1/19
HEARING: 1/26
REPORT: 1/28, BE CONCURRED IN
2ND READING: 2/5, ON MOTION, PASSED FOR THE DAY.
ON MOTION, 2/5, PASSED CONSIDERATION UNTIL THE 46TH LEGISLATIVE
DAY.
2ND READING: 3/2, YEAS: 91; NAYS: 0
3RD READING: 3/4, YEAS: 94; NAYS: 5

RETURNED TO SENATE: 3/4
TRANSMITTED TO GOVERNOR: 3/10/81
ACTION SIGNED: 3/11/81
CHAPTER 31

SB 63 -- TO CONFORM THE STATUTES REGARDING AMENDMENT OF CHARGES IN
CRIMINAL CASES TO CASE LAW.

PREFILED AND REFERRED TO COMMITTEE ON JUDICIARY: 12/30/80
HEARING: 1/13
REPORT: 1/20, DO PASS
2ND READING: 1/28, DO PASS AS AMENDED
3RD READING: 1/26, YEAS: 49; NAYS: 0

TRANSMITTED TO HOUSE: 1/26
REFERRED TO COMMITTEE ON JUDICIARY: 1/27
HEARING: 3/4
REPORT: 3/4, BE CONCURRED IN
2ND READING: 3/5, YEAS: 88; NAYS: 0
3RD READING: 3/7, YEAS: 93; NAYS: 2

RETURNED TO SENATE: 3/7
TRANSMITTED TO GOVERNOR: 3/11/81
ACTION: 3/16, SIGNED
CHAPTER 62

SB 64 -- ELLIOTT -- TOTAL DISABILITY COMPENSATION BENEFITS TERMINATE
WHEN...

INTRODUCED: 1-6
REFERRED TO COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS: 1/6
HEARING: 1/13
REPORT: 1/14, DO PASS
RE-REFERRED TO COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS: 1/17
HEARING: 1/29
REPORT: 2/10, DO PASS
2ND READING: 2/12, YEAS: 26; NAYS: 16
3RD READING: 2/14, YEAS: 28; NAYS: 21

TRANSMITTED TO HOUSE: 2/14
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 2/16
HEARING: 3/10
REPORT: 3/19, BE CONCURRED IN
ON MOTION, 3/26, PASSED FOR THE DAY.
ON MOTION, 3/27, PASSED CONSIDERATION TO 71ST LEGISLATIVE
DAY.
2ND READING: 4/2, ON MOTION, PASSED FOR THE DAY.
2ND READING: 4/4, YEAS: 51; NAYS: 46

SENATE BILL NO. 59

INTRODUCED BY S. BROWN

IN THE SENATE

January 5, 1981	Introduced and referred to Committee on Agriculture, Livestock, and Irrigation.
January 15, 1981	Committee recommend bill do pass. Report adopted.
January 16, 1981	Bill printed and placed on members' desks.
January 17, 1981	Second reading, do pass.
January 19, 1981	Considered correctly engrossed.
January 20, 1981	Third reading, passed. Transmitted to House.

IN THE HOUSE

January 21, 1981	Introduced and referred to Committee on Agriculture.
January 29, 1981	Referred to Committee on Water.
March 2, 1981	Committee recommend bill be concurred in. Report adopted.
March 3, 1981	Second reading, concurred in.
March 5, 1981	Third reading, concurred in. Yeas, 86; Nays, 8.

IN THE SENATE

March 6, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
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SENATE BILL NO. 59

INTRODUCED BY S. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 85-2-306, MCA, TO PROVIDE THAT THE EXEMPTION FOR A STOCK WATERING PIT OF LESS THAN 15 ACRE-FEET APPLIES ONLY IF THE PARCEL ON WHICH THE IMPOUNDMENT IS TO BE CONSTRUCTED IS 40 ACRES IN SIZE OR LARGER; AND TO PROVIDE RETROACTIVE APPLICATION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 85-2-306, MCA, is amended to read:

"85-2-306. Exceptions to permit requirements. (1) Outside the boundaries of a controlled groundwater area, a permit is not required before appropriating groundwater by means of a well with a maximum yield of less than 100 gallons a minute. Within 60 days of completion of the well and appropriation of the groundwater for beneficial use, the appropriator shall file notice of completion on a form provided by the department at its offices and at the offices of the county clerk and recorders. Upon receipt of the notice, the department shall automatically issue a certificate of water right. The original of the certificate shall be sent to the county clerk and recorder in the county where the point of diversion or place of use is located for

recordation. The department shall keep a copy of the certificate in its office in Helena. After recordation, the clerk and recorder shall send the certificate to the appropriator. The date of filing of the notice of completion is the date of priority of the right.

(2) A permit is not required before constructing an impoundment or pit and appropriating water for use by livestock if the maximum capacity of the impoundment or pit is less than 15 acre-feet, and the appropriation is from a source other than a perennial flowing stream, and the impoundment or pit is to be constructed on and will be accessible to a parcel of land that is owned or under the control of the applicant and that is 40 acres or larger. As used in this subsection, a perennial flowing stream means a stream which historically has flowed continuously at all seasons of the year, during dry as well as wet years. However, before constructing the impoundment or pit, the appropriator shall apply for a permit as prescribed by this part. If the department determines after processing the application that the rights of other appropriators have been or will be adversely affected, it may require the applicant to modify the construction of the impoundment or pit and issue the permit subject to such terms, conditions, restrictions, or limitations it considers necessary to protect the rights of other appropriators.

1 (3) A person may also appropriate water without
2 applying for or prior to receiving a permit under rules
3 adopted by the board under 85-2-113."

4 Section 2. Application. This act applies to
5 applications pending with the department on the effective
6 date of this act, as well as applications filed with the
7 department after the effective date of this act.

-End-

MINUTES OF THE MEETING
AGRICULTURE, LIVESTOCK & IRRIGATION
MONTANA STATE SENATE

January 14, 1981

The Agriculture, Livestock & Irrigation Committee meeting was called to order on the above date, in Room 415 of the State Capitol Building, at 1:00 p.m.

ROLL CALL: All members present.

CONSIDERATION OF SENATE BILL 69: Senator Hager, District 30, introduced Oscar Harmon, President, Board of Directors, City Water District of Billings Heights, who in turn went over the bill with the Committee, explaining the problems they had with compensation. Statement attached.

There being no further proponents or opponents to the bill, discussion followed.

CONSIDERATION OF BILL 59: Senator S. Brown, District 13, explained his parent's problem with an open pit pond next to their property and how the ground water had risen. He felt there should be better limits on these ponds so they would not cause flooding and excess amounts of surface ground water which in turn created a hazard to other property owners. Map attached.

There being no further proponents or opponents to the bill, Committee discussion followed.

DISPOSITION OF SENATE BILL 69: Senator Lee moved that the period after compensation, on line 22, Section 1, subsection 2, be struck and "however members be entitled to reasonable expenses for district business" be added.

Senator Kolstad felt the amendment too broad. Senator Aklestad said too many amendments were being written into a bill he felt the Committee shouldn't be interfering in. The general consensus was to give the authority back to the districts.

Senator Lee then made a sub-motion to strike all of subsection 2 under Section 1. After considerable discussion a roll call vote was called and the motion carried five to four.

Senator Graham moved that Senate Bill 69, As Amended, DO PASS. Motion carried. Note for the record, Senator Aklestad voted NO.

DISPOSITION OF SENATE BILL 4: Senator Galt turned the chair over to Senator Kolstad.

Senator Galt then proposed the following Amendments to Senate Bill 4.

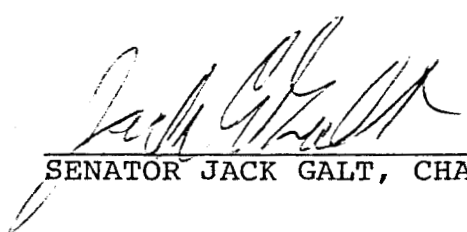
He moved for two grammatical changes on pages 7 and 8 of

January 14, 1981
page-3

Senator Graham moved DO PASS on Senate Bill 59. Motion
carried. Note for the record, Senator Lee voted NO.

Senator Galt asked Senator Kolstad to chair Monday's
meeting.

There being no further business, the hearing adjourned
at 2:35 p.m.



SENATOR JACK GALT, CHAIRMAN

ROLL CALL

AGRICULTURE COMMITTEE

47 th LEGISLATIVE SESSION - - 19 81

Date Jan 14, 1981

NAME	PRESENT	ABSENT	EXCUSED
GALT, Jack E.	✓		
KOLSTAD, Allen C.	✓		
AKLESTAD, Gary C.	✓		
OCHSNER, J. Donald	✓		
GRAHAM, Carroll	✓		
BOYLAN, Paul F.	✓		
CONOVER, Max	✓		
ECK, Dorothy	✓		
LEE, Gary	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

January 14 1981

MR. **President**

We, your committee on **Agriculture, Livestock & Irrigation,**

having had under consideration **Senate** Bill No. **59**

Respectfully report as follows: That **SENATE** Bill No. **59**

DO PASS

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 59	Provide exemption for stock watering pit	1-21-81	Brown	1-26-81	referred to Water ..	1-27-81
H.B. 355	Require state to pay indemnity at full appraised value if Dept Liv. requires destruct. of herd because of brucellosis	1-20-81	Sivertsen	1-28-81	DO PASS as amended 1-28-81	1-30-81
H.B. 247	Require official vaccination against brucellosis of female cattle over 12 mo before import into Montana....	1-15-81	Sivertsen	1-28-81	(remove from table) ...//t DO PASS as amended 1-28-81	1-30-81
H.B. 450	Repeal sections requiring labeling of imported meat	1-24-81	Ellerd	(HOLD) 2-11-81	DO PASS 2-11-81	2-11-81
H.B. 452	Gen revision of pesticide registration, lic, enforce and penalties prov.....	1-24-81	Meyer	1-30-81	Hearing 1-30 amendments added DO PASS as amended 2/4/81	2-9-81
H.B. 467	to create a montana alfalfa seed commission	1-24-81	Sivertsen	1-30-81 Postponed 2-4-81	2-4-81 legal counsel will write amend. DO PASS AS AMEND 2-11	2-11-81
H.B. 467	STATEMENT OF INTENT.. referred back.	2-13-81	Sivertsen	2-16-81	Statement of Int DO PASS 2-16-81	2-17-81

THE MINUTES OF THE MEETING OF THE AGRICULTURE COMMITTEE
January 26, 1981

The meeting was called to order by CHAIRMAN SMITH on January 26, 1981 at 12:30 p.m. in Room 431 of the Capitol.

Roll call was taken and all members were present but REPRESENTATIVE RYAN.

SENATE BILL 59 was introduced by SENATOR BROWN. A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 85-2-306; MCA, TO PROVIDE THAT THE EXEMPTION FOR A STOCK WATERING PIT OF LESS THAN 15 ACRE-FEET APPLIES ONLY IF THE PARCEL ON WHICH THE IMPOUNDMENT IS TO BE CONSTRUCTED IS 40 ACRES IN SIZE OR LARGER: AND TO PROVIDE RETROACTIVE APPLICATION." (EXHIBIT A)

SENATOR BROWN stated a case that showed his reason for this bill, and a map showing a small parcel of land that a permit was given for diggin a watering pit or pond. This land was in turn sold to a sand and gravel mining operation that dug the pond to its specifications. Standing water problems have arisen in and around that area that could be contributed to such a pond. SENATOR BROWN said that it was his contention that this bill would eliminate anyone with a parcel of land less than 40 acres from digging a pond without a proper permit. This bill would possible connect with Representative Burnett's House Bill 324.

There being no proponents or opponents, the meeting was opened for Discussion.

It was confirmed that the standing water was ground water SENATOR BROWN said. He said that he would have no objections to a 20 acre permit providing they are digging ponds for livestock purposes. These permits would be obtained from the Natural Resource Department.

It was the Committee's decision to hold this bill.

HOUSE BILL 265 (EXHIBIT A, January 23, 1981 Minutes) "AN ACT TO PROVIDE FOR THE CREATION AND OPERATION OF RODENT CONTROL DISTRICTS; REPEALING SECTIONS 7-22-2201 THROUGH 7-22-2206, MCA," sponsored by REPRESENTATIVE ELLISON and REPRESENTATIVE RYAN, was opened for discussion.

DISCUSSION in regards to the way the 51% was stated on page 2 and page 3 of the bill; page 2 stating "51% of the owners of the land within the proposed district" and page 3, stating "51% of the land within the district." DAVE COGLEY, legal counsel, stated that this was intentional in order that 51% of the land owners could petition to adopt the rodent control, but that in turn it left the law open so that owners of 51% of the land could petition against it. REPRESENTATIVE

MINUTES OF THE SELECT COMMITTEE ON WATER
February 3, 1981

The Select Committee on Water convened on Tuesday, February 3, 1981 in Room 436 of the Capitol at 2 p.m. with CHAIRMAN AUDREY ROTH presiding. All members were present, with the exception of REPRESENTATIVE BRIGGS.
HB 194

The continuation of HB 194 was opened by REP. ELLISON. He suggested amending the bill as follows: On line 6 (part of the title), strike: "REPEAL OR", and on line 12, strike: "or repeal", line 15, strike: "repeal or". He offered these amendments in response to John Scully's request from the previous hearing of the bill on January 27, 1981.

PROPOSERS FOR THE AMENDMENTS

PETER JACKSON, representing Western Environmental Trade Association, said that he approved of the suggested amendments.

OPPOSERS FOR THE AMENDMENTS

There were none.

PROPOSERS FOR THE BILL

None gave testimony.

OPPOSERS: ELLEN DITZLER of the Montana Environmental Information Center testified in opposition to the bill. (EXHIBIT I). ABE HARPESTAD, representing the Department of Environmental Science (DES) stated the bill expresses a lack of trust in legislative judgment. He also feels it is a duplication of effort. PAT OSBORNE of the Northern Plains Resource Council doesn't feel HB 194 addresses the problems that occurred during the Yellowstone water controversy.

QUESTIONS FROM THE COMMITTEE:

REP. CURTISS asked if the board left unappropriated water in both the Upper and Lower Yellowstone. LEO BERRY of the DNRC replied "yes." REP. CURTISS asked if someone was present who could speak on the subject. GARY FRITZ, also of the DNRC, said there is more water in the stream left unappropriated than has been reserved. He said the reservation has been changed and feels there is adequate water in 8 out of 10 years. REP. CURTISS said that in the public hearings, it seemed that there wasn't enough and that, under the permit system, "junior users" were getting more water than "senior users." GARY FRITZ (DNRC) said that, in 8 out of 10 years, there is enough water. Most Conservation Districts would disagree with that, he said. REP. CONROY asked about the "modification" part of the bill. He wondered if it might do the opposite of the sponsor's intention. REP. ELLISON said there was some weakness in that part of the bill,

but that there was the right of appeal in the courts. REP. THOFT asked if REP. ELLISON would still like the bill, sometime in the future when conditions were not as favorable. REP. ELLISON said the option of appealing through the courts should address complaints. He said that one hearing may have already taken place. REP. THOFT asked what one would do if the board didn't respond favorably. REP. ELLISON again said to appeal. REP. ASAY asked if there was a procedure at this time for the legislature to review the application. GARY FRITZ and LEO BERRY said there was presently no review. REP. THOFT asked if a bill could be introduced to override the action of the board. LEO BERRY said that was a difficult question to answer as it is a very complex legal issue as to whether or not a property right has been delegated to the Conservation Districts. He didn't know if the legislature could come in and reallocate the reservations the board had made. That issue has never been adjudicated. REP. KEMMIS wonders how this bill could improve anything about the Yellowstone situation. REP. ELLISON commented that some of the cities were unhappy about that as well as the agricultural community. He feels this bill will allow review and provide a system of checks and balances. REP. ROTH pointed out that Section 85-23-16 provides for strict guidelines to follow in reserving water. REP. KEMMIS said these reservations were drawn up after a great deal of study. He doesn't feel the legislature would be as knowledgeable as those who drew up the reservations. REP. ELLISON feels the legislative review process would work now and for the future when the needs would probably be different. REP. KEMMIS asked if a reservation of a Conservation District could be converted into a diversionary right. GARY FRITZ said the board could modify or revoke a reservation only if it could show that the water has not been put to use in the intended manner. He also pointed out the difference between a water permit and a reservation. REP. KEMMIS asked if a bank is likely to grant a loan to a Conservation District that has only a provisional water right. REP. ELLISON said that is all that is available.

REP. THOFT asked if the bill would delay a project needing money because of having to wait for the legislature to convene. LEO BERRY said it could.

REP. ELLISON closed the hearing on HB 194.

SB 59

SENATOR STEVE BROWN, of Helena, opened the hearing on the bill. He stated that the bill was originally referred to the Senate Agriculture Committee. The present law permits a stock owner to dig a pit of 15 acre feet or smaller. His parents encountered a situation where a pit was built on adjoining property and then asked for a permit, saying it was to be used for stock watering

purposes. It later became apparent that it was for recreational uses, primarily as a duck hunting pond. Subsequently, it was leased to an individual who wanted to mine for sand and gravel. He dug a trench about 18' deep and about 10' wide along the boundary of his parents' property. Previous to this, the Browns had experienced a high water table and had constructed a drain ditch so that it could become usable pasture; but now, with the adjoining trench, water is reappearing on their property. It is felt that the pit may have disturbed the ground water aquifers and may cause a long-term problem. He feels that this may occur in other instances and, for this reason, is introducing SB 59 which requires that a permit be first obtained before a pit is built. (EXHIBIT II) He feels that small parcels of land are especially likely to encounter problems of this type. SEN. BROWN said agricultural groups favor the bill and the Senate passed the bill with only one no vote.

PROPONENTS:

There were none.

OPPONENTS:

There were none.

EXECUTIVE SESSION

HB 324. REP. BURNETT said he felt the two bills just heard could be combined. He suggested that the SCS should be available to engineer a project, such as SEN. BROWN discussed in the hearing on SB 59. REP. CONROY asked LEO BERRY if he thought the two bills could be combined. LEO BERRY said he didn't feel they were compatible, but felt they expressed opposite intents. Further discussion of HB 324 was postponed at this time.

HB 269. REP. McLANE read her proposed amendments to HB 269. (EXHIBIT III) She then moved the amendments be accepted. REP. HUENNEKENS suggested that the amendments be addressed one at a time. REP. McLANE moved that Amendment 1 be accepted by the committee; it was seconded and PASSED UNANIMOUSLY. She moved that Amendment 2 be accepted by the committee; it was seconded and PASSED UNANIMOUSLY, as were Amendments 3 and 4. REP. McLANE moved that HB 269 DO PASS AS AMENDED. The motion was seconded and passed UNANIMOUSLY.

HB 324. HB 324 was again brought up for action by the committee. After the committee took a moment to study the proposed amendments (EXHIBIT IV), REP. CONROY, referring to page 2, asked about revocation of a water permit. LEO BERRY said the only time the permit would be revoked would be if the pit was interfering

HOUSE BILL 432

CHAIRMAN ROTH stated that HB 432 was cancelled by its sponsor.

REP. HUENNEKENS moved that HB 432 be indefinitely postponed.

MOTION PASSED UNANIMOUSLY.

SENATE BILL 59

REPRESENTATIVES CONROY and NEUMAN were excused.

SEN. STEVE BROWN entered the meeting and explained SB 59, "An Act to Amend Section 85-2-306, MCA, To Provide That the Exemption For A Stock Watering Pit Of Less Than 15 Acre-Feet Applies Only If The Parcel On Which The Impoundment Is To Be Constructed Is 40 Acres In Size Or Larger; And To Provide Retroactive Application."

He stated that it was his understanding that the committee wanted some sort of foot limitation from the boundary, and that would be acceptable. It was not his intent to bring everybody under the bill including the land owner. This requires that, if the parcel was a 40 acre parcel or smaller, a property owner would have to apply for the permit first, then the agency and the neighbor could approve the location of the pond. Second, a possible high ground water situation and its impact should be considered.

REP. KEMMIS moved that the Committee RECONSIDER action on SB 59.

MOTION PASSED UNANIMOUSLY.

REP. THOFT asked if this bill was in direct conflict with HB 324.

REP. HUENNEKENS stated there would be a conflict if a person put in a pond and then asked for a permit. The Department rejects the permit if they found that it could adversely affect someone else's water supply. He felt they would have to address this conflict, making an exception in certain cases.

SEN. BROWN stated that except for those parcels of 40 acres or smaller, Rep. Burnett's bill should be amended to make reference to the two bills. Then when the codifier does the coding, she can reconcile the two conflicts.

REP. ASAY commented on the larger parcels of land as having a conflict.

SEN. BROWN stated he was not interested in the larger parcels and did not want to get into that at all.

15

Legislative Researcher, BOB PERSON said he felt there is no conflict with the two bills. Neither did REP. KEMMIS. Sen. Brown's bill would still say that you do require a permit before an impoundment on a parcel of 40 acres or smaller, and Rep. Burnett's bill would say that in other cases, a permit would have to be obtained within 60 days after you begin construction.

BOB PERSON stated that the amendment being inserted on line 10 through 13 at the end of the sentence would qualify the acreage limitation. Rep. Burnett's bill amends different parts of that exact subsection so that his would apply the same way it does now, except to his amended provision for stock permits. The only substantive change that Senator Brown is proposing is the way that the amended exception would apply.

REP. HUENNEKENS stated that on page 2, line 9-10, the maximum capacity 15 acre feet was stricken and in Senate Bill 59 it is still maintained in the bill.

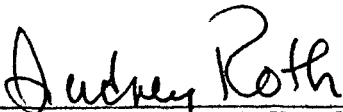
BOB PERSON said it had been amended back in. As originally introduced, Rep. Burnett's bill would have conflicted but as it was amended and passed by the committee, it no longer conflicted.

REP. ASAY moved to pass Senate Bill 59.

MOTION PASSED.

SEN. BROWN thanked the committee.

The meeting adjourned at 1:45 p.m.



CHAIRMAN AUDREY ROTH

SENATE BILL NO. 59

INTRODUCED BY S. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 85-2-306, MCA, TO PROVIDE THAT THE EXEMPTION FOR A STOCK WATERING PIT OF LESS THAN 15 ACRE-FEET APPLIES ONLY IF THE PARCEL ON WHICH THE IMPOUNDMENT IS TO BE CONSTRUCTED IS 40 ACRES IN SIZE OR LARGER; AND TO PROVIDE RETROACTIVE APPLICATION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 85-2-306, MCA, is amended to read:

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recordation. The department shall keep a copy of the certificate in its office in Helena. After recordation, the clerk and recorder shall send the certificate to the appropriator. The date of filing of the notice of completion is the date of priority of the right.

(2) A permit is not required before constructing an impoundment or pit and appropriating water for use by livestock if the maximum capacity of the impoundment or pit is less than 15 acre-feet, and the appropriation is from a source other than a perennial flowing stream, and the impoundment or pit is to be constructed on and will be accessible to a parcel of land that is owned or under the control of the applicant and that is 40 acres or larger. As used in this subsection, a perennial flowing stream means a stream which historically has flowed continuously at all seasons of the year, during dry as well as wet years. However, before constructing the impoundment or pit, the appropriator shall apply for a permit as prescribed by this part. If the department determines after processing the application that the rights of other appropriators have been or will be adversely affected, it may require the applicant to modify the construction of the impoundment or pit and issue the permit subject to such terms, conditions, restrictions, or limitations it considers necessary to protect the rights of other appropriators.

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4 Section 2. Application. This act applies to
5 applications pending with the department on the effective
6 date of this act, as well as applications filed with the
7 department after the effective date of this act.

-End-